

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT SECURITIES
LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of Bernard
L. Madoff Investment Securities LLC,

Plaintiff,

v.

THE HEBREW UNIVERSITY OF JERUSALEM, YISSUM
RESEARCH DEVELOPMENT COMPANY OF THE
HEBREW UNIVERSITY OF JERUSALEM LTD., BEN-
GURION UNIVERSITY OF THE NEGEV, B.G. NEGEV
TECHNOLOGIES AND APPLICATIONS LTD., THE
WEIZMANN INSTITUTE OF SCIENCE, and BAR ILAN
UNIVERSITY,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 21-01190 (CGM)

**DECLARATION OF TAMAR MUND, ADV. IN SUPPORT OF
MOTION TO DISMISS COMPLAINT**

I, Tamar Mund, Adv. declare under penalty of perjury under the laws of the United States
of America that the foregoing is true and correct:

1. I am the general counsel of Ben-Gurion University of the Negev (“Ben-Gurion”). I have personal knowledge of the facts contained in this Declaration, including from inquiries that I conducted.

Ben-Gurion’s governance

2. Ben-Gurion is a public research university located in Beer Sheva, Israel. Ben-Gurion was incorporated under the Israeli Council for Higher Education Law, 5718-1958 and is recognized as an institution of higher education and chartered as a corporation, pursuant to said law.

3. Ben-Gurion’s two principal governing documents are its Constitution and its General By-Laws. The Constitution describes the purposes and powers of Ben-Gurion and sets out its governing authorities. As set forth in its Constitution, Ben-Gurion’s primary purposes are to be a scientific, educational and cultural center in Israel and particularly in the Negev, and to assist in the development and advancement of the State of Israel and the Negev. The General By-Laws contain detailed provisions regarding how the university’s governing authorities are to operate. (Attached as **Exhibit 1** is a true and correct copy of Ben-Gurion’s Constitution and its General By-Laws in English, which were applicable during the relevant time period.)

4. The Trustee has alleged that Adv. Yair Green served on Ben-Gurion’s Board of Governors, on its Executive Committee, and on its Investments Committee, and that the Board of Governors is “the supreme Authority of [Ben-Gurion]” with the power to “oversee[] its affairs, management and assets . . . [to] approve[] [Ben-Gurion’s] financial reports, ratif[y] its annual budget and its financial policy . . . [and to] rais[e] funds for [Ben-Gurion].” (Compl. ¶ 242.)

5. At no time did Mr. Green act as a representative of Ben-Gurion at Yeshaya Horowitz Association (“Yeshaya”). The Trustee’s implication that Mr. Green had power or

authority to act on behalf of Ben-Gurion because he was a Governor is not correct. There are currently more than 200 Governors, from Israel and around the world, who meet once per year. The Board of Governors has a limited role in the governance of the university. No individual member of the Board of Governors has any power because he or she is a Governor, let alone the power to act on behalf of the university. Rather, the Governors can only act together — in their limited sphere of authority — as a corporate body. During the period in which Mr. Green served on the Board of Governors (2002-2014), the Board was composed of hundreds of members, even more than the case today.

6. The same is true regarding Mr. Green's role as a member of the Executive Committee and the Investments Committee. *First*, the Investments Committee would not have been responsible for soliciting funds from Yeshaya. Rather, the Investments Committee is tasked primarily with overseeing Ben-Gurion's investment of its assets. *Second*, and in any case, no individual member of the Executive Committee or the Investments Committee has any power because he or she is an Executive Committee or Investments Committee member. Rather, the members act collectively, and are entitled to vote on matters delegated to them. During the period in which Mr. Green served on the Executive Committee (2002-2013), the Committee was composed of at least 15 members. During the period in which Mr. Green served on the Investments Committee (2003-2013), the Committee meetings were composed of at least eight participants.

7. The same is true regarding Ben-Gurion's professors. Except regarding their teaching and research roles at the University, professors of Ben-Gurion (including, but not limited to, Professor Bracha Rager) do not have the power and authority to act on behalf of the

University. In addition, at no time did any of the Ben-Gurion professors referenced in the complaint act as a representative of Ben-Gurion at Yeshaya.

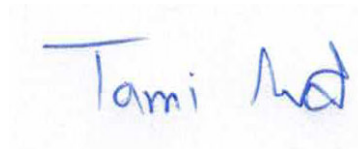
BGN Technologies

8. B. G. Negev Technologies and Applications LTD. (“BGN Technologies”) is a technology company associated with Ben-Gurion. BGN Technologies’ role is to commercialize scientific discoveries made by Ben-Gurion and its researchers. BGN Technologies is wholly owned by Ben-Gurion, but it is a separate legal entity, formed under the laws of Israel and incorporated as a limited liability company under the Companies Law 5759-1999. BGN Technologies’ status as a separate entity is respected by Ben-Gurion. BGN Technologies has its own management and governance. Its board of directors is separate from Ben-Gurion’s Board of Governors and has its own meetings. BGN Technologies has its own employees and its own bank accounts. BGN Technologies also has its own assets and liabilities separate from Ben-Gurion’s. Any allegation that BGN Technologies and Ben-Gurion are the same entity, or treated by Ben-Gurion as the same entity, is incorrect.

AFBGU

9. The Americans for Ben-Gurion University (“AFBGU”) is a nonprofit organization organized and headquartered in New York. AFBGU’s purpose is to support and raise funds for Ben-Gurion. AFBGU has an independent board of directors and it is separate and independent from Ben-Gurion.

Executed on February 10, 2022
Beer Sheva, Israel



Tamar Mund